



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 03665-99
11 February 2000

LT [REDACTED] USNR RET
[REDACTED]

Dear Lieutenant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Your request to change your DD Form 214 ("Certificate of Release or Discharge from Active Duty") to show your promotion to lieutenant commander effective 1 November 1998 was not considered, since you have not exhausted your administrative remedies. You may ask the Navy Personnel Command (NPC) (PERS-312) to issue a DD Form 215 reflecting this correction. You may likewise apply to the Defense Finance and Accounting Service for the difference in pay between lieutenant and lieutenant commander from 1 November 1998 to your retirement on 1 February 1999, if you still have not received it.

The attached letter to you from PERS-312 dated 15 November 1999 with enclosure reflects they have issued a DD Form 215 correcting your DD Form 214 to show the Meritorious Service Medal and other medals and awards you have earned.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by NPC dated 17 August and 13 September 1999, copies of which are attached. The Board also considered your letter dated 5 January 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions in concluding you do not rate promotion to lieutenant commander on the retired list. In view of the above, your application for relief beyond that effected by NPC

has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

3665-99

1000
PERS-312/13
15 NOV 1999

M [REDACTED]

De [REDACTED]

We have corrected block 13 of your DD Form 214 dated 31 January 1999 to show all medals and awards that you have earned. Please attach the enclosed document to your DD Form 214.

Sincerely,

[REDACTED]
Supervisor Military Personnel Technician
Records Support Branch

Enclosure: 1. DD Form 215

Copy to:

Board for Correction of Naval Records

Bureau of Naval Personnel (PERS-002) [REDACTED]

3665-99

CAUTION: NOT TO BE USED FOR
IDENTIFICATION PURPOSES

ANY ALTERATIONS IN SHADED AREAS
RENDER FORM VOID

1. NAME (Last, first, middle) [REDACTED]		2. DEPARTMENT, COMPONENT AND BRANCH NAVY-USNR	3. SOCIAL SECURITY NO. (Also, Service Number if applicable) [REDACTED]
4. MAILING ADDRESS (Include ZIP Code) [REDACTED]			
5. ORIGINAL DD FORM 214 IS CORRECTED AS INDICATED BELOW			
ITEM NO.		CORRECTED TO READ	
13		SEPARATION DATE ON DD FORM 214 BEING CORRECTED - 99 JAN 31 GOOD CONDUCT MEDAL (3); NAVY UNIT COMMENDATION; BATTLE "E" RIBBON (3); NATIONAL DEFENSE SERVICE MEDAL (2); NAVY AND MARINE CORPS ACHIEVEMENT MEDAL (2); MERITORIOUS SERVICE MEDAL; NAVY AND MARINE CORPS COMMENDATION MEDAL (2); MERITORIOUS UNIT COMMENDATION (2); SEA SERVICE DEPLOYMENT RIBBON; ARMED FORCES RESERVE MEDAL. NO FURTHER ENTRIES BY DIRECTION OF THE CHIEF OF NAVAL PERSONNEL	
6. DATE 15 NOV 1999 PERS-312E/13/29		AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN [REDACTED] STOLLINGS, [REDACTED] RECORDS SUPPORT BRANCH	

DD FORM 215
1 JUL 79

S/N 0102-LF-000-2150

PREVIOUS EDITIONS
OF THIS FORM ARE
OBSOLETE.

CORRECTION TO DD FORM 214, CERTIFICATE OF RELEASE OR
DISCHARGE FROM ACTIVE DUTY

SERVICE - 2



3665-99

DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-86
17 Aug 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST ICO LIEUTENANT [REDACTED]
[REDACTED]

Encl: (1) BCNR File 03665-99 w/Service Record

1. We are returning enclosure (1) with the following observations and the recommendation that relief in Lieutenant [REDACTED] case be denied.

2. Lieutenant [REDACTED] TAR officer, was properly considered by the FY-99 Naval Reserve Lieutenant Commander Line Promotion Selection Board, and was recommended for promotion. Lieutenant [REDACTED] submitted a request for voluntary retirement before the results of the selection board were approved. Lieutenant [REDACTED] was removed from the Reserve Active-Status List (RASL) and placed on the retired list effective 1 January 1999. Upon release of the results of the selection board, Lieutenant [REDACTED] promotion was effected and the record was corrected to show that he had been promoted with an effective date of rank of 1 November 1998. Lieutenant [REDACTED] retirement in the grade of lieutenant remained in effect because he had not served the six months required by Title 10, United States Code, § 1370(a) for retirement in the grade of lieutenant commander.

3. It is our opinion that Lieutenant [REDACTED] should have been aware of his promotion status and of the potential likelihood that he might be selected and therefore promoted. It is our further opinion that Lieutenant [REDACTED] acted of his own volition, and is not the victim of unjust or unfair treatment. Finally, it is our opinion that Lieutenant [REDACTED] should obligate to serve the minimum amount of time required to retire in the grade requested.

4. In order for Lieutenant [REDACTED] to retire in the grade of lieutenant commander, we recommend that Lieutenant [REDACTED] petition the BCNR to have the record corrected as if he had

Subj: REQUEST ICO LIEUTENANT [REDACTED]

never retired. This would allow Lieutenant [REDACTED] the opportunity to obligate for the minimum amount of time required to retire in the next higher pay grade.

5. We further recommend that this case be forwarded to PERS-4417 for further review of Lieutenant [REDACTED] duty options if he requests nullification of his retirement, to PERS-822 for review of Lieutenant [REDACTED] retirement options, and to the Defense Finance and Accounting Service for review of any further retirement pay actions.

[REDACTED]
[REDACTED]
[REDACTED]
Director, Reserve Officer
Promotion, Appointments, and
Enlisted Advancement Division



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

3065-99

1811
PERS-822
13 Sep 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) NPC memo 5420 PERS-00ZCB of 23 AUG 99
(b) Title 10 United States Code 1370

Encl: (1) BCNR file

1. Reference (a) request comments and recommendations in subject officer's case. Specifically, Petitioner requests his retirement and retirement pay to reflect Lieutenant Commander vice Lieutenant.

2. Lieutenant [REDACTED] submitted a voluntary retirement request on 10 December 1997 for a 1 January 1999 retirement date. Retirement orders were issued 12 January 1998. On 10 November 1998, Lieutenant [REDACTED] submitted a letter asking to modify his voluntary retirement date to 1 February 1999, and again a new set of retirement orders were issued on 1 December 1998.

3. Lieutenant [REDACTED] did not have a statutory retirement and therefore is not entitled to retire in the grade of lieutenant commander per reference (b).

4. Enclosure (1) is returned.

[REDACTED]
Branch Head, Officer
Retirements